



CANNON BUILDING  
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STATE OF DELAWARE  
**DEPARTMENT OF STATE**

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DIVISION OF PROFESSIONAL REGULATION

<b>PUBLIC MEETING MINUTES:</b>	<b>Adult Entertainment Commission</b>
<b>MEETING DATE AND TIME:</b>	<b>Thursday, July 23, 2009 at 2:00 p.m.</b>
<b>PLACE:</b>	Cannon Building, 861 Silver Lake Boulevard Conference Room A, Dover, Delaware 19904
<b>MINUTES APPROVED:</b>	December 1, 2009

**MEMBERS PRESENT**

James Nutter, Esq., Chairperson  
Maisha Britt, Public Member  
John Henry, Public Member

**DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT**

Ann Marie Johnson, Deputy Attorney General  
Debbie Heinsch, Administrative Specialist II  
Kay Warren, Deputy Director, Division of Professional Regulation

**ALSO PRESENT**

Jeffrey Cohen, applicant  
Willis J. Duckery, applicant  
Lt. J.T. Hulings, Delaware State Police  
Arthur Rosenheck, applicant

**MEMBERS ABSENT**

Curtis Larrimore, Public Member  
Richard Chambers, Public Member

**CALL TO ORDER**

Mr. Nutter called the meeting to order at 2:19 p.m. Mr. Nutter advised that he was acting Chairperson of the Committee. The Committee members made introductions. Mr. Nutter spoke about Senate Bill 179, which was recently signed by the Governor.

**REVIEW OF MINUTES FOR APPROVAL**

The Commission reviewed the minutes from the December 12, 2008 meeting. Ms. Britt made a motion, seconded by Mr. Henry, to approve the minutes as presented. The motion was unanimously carried.

The Commission reviewed the minutes of the hearing held for David Lui, and the Canton Inn Gentlemen's Club on July 7, 2009. Ms. Britt made a motion, seconded by Mr. Henry to approve

the minutes as presented. The motion was unanimously carried.

## **NEW BUSINESS**

### **Review of Application for Licensure**

Lt. Hulings reported there was nothing to preclude the applicant from being issued a license. Ms. Britt made a motion, seconded by Mr. Henry, to approve Mr. Jeffrey Cohen's application for licensure for Bob's Discount Adult Books, Inc. The motion was unanimously carried.

Lt. Hulings reported there was nothing to preclude the applicant from being issued a license. Mr. Nutter reported that since the last Commission meeting the name of the business has changed from Midvale Books to DVD Depot, Inc. Ms. Britt made a motion, seconded by Mr. Henry, to approve Mr. Arthur Rosenheck's application for licensure for DVD Depot, Inc. The motion was unanimously carried.

Lt. Hulings reported there was nothing to preclude the applicant from being issued a license. Mr. Nutter reported that since the last Commission meeting Mr. Duckery has contracted to purchase the business from Ms. Moffit. Mr. Duckery amended the application for Ms. Carlisa Daniels which contained an error. Ms. Britt made a motion, seconded by Mr. Henry, to approve Mr. Willis Duckery's application for licensure for Fairways Inn-Topless Tavern. The motion was unanimously carried.

**Sunset Review** – Mr. Nutter spoke regarding the Sunset Review and revisions to the Statute. Mr. Nutter read into record a synopsis of the bill. The bill clarifies the intent of the General Assembly to include that the health, safety and welfare of the people of the State are imperiled by the widespread operation of adult oriented retail businesses without reasonable time, place and manner limitations on such businesses; defines "Adult oriented retail establishment" as any commercial establishment, business or service, or portion thereof, which offers as a substantial portion of their business sexually oriented material, devices, or paraphernalia, but does not allow on-site displays of sexually oriented materials or sexual activities; provides that no new adult oriented retail establishment shall operate in the same building or in separate buildings less than 500 feet from each other, within 200 feet of any school bus stop or any residence regardless of how such property is zoned, or within 500 feet from a church or school; no adult oriented retail establishment shall operate in a manner that allows sexually oriented material, devices, or paraphernalia to be visible from outside of the establishment at any time, including during times any door to the business is open. Violations of this subsection shall be punishable by a fine in an amount not to exceed \$5,000; removes reference to initial appointment of Commission members; removes all reference to massage and massagists, as these are regulated under Chapter 53 of Title 24; pursuant to the Act, unlicensed adult entertainment establishments are declared to be a nuisance and subject to abatement proceedings under the Delaware Drug Nuisance and Social Vices Abatement Act; and provides that the Commission may refuse to license an applicant if the Commission has substantial evidence that would reasonably support a belief that a substantial objection to the granting of the license has been presented by the community within which the license is to operate, or that the granting of such license is otherwise not in the public interest. The fee for the new license type will be set by the Division of Professional Regulation. Mr. Nutter reported that the legislation does not define when and where the Commission will meet again. Ms. Warren reported that under Section 1604b it states will meet as determined by the Commission. There will be a need for a meeting to be held in October as it is expected to have new applicants at that time. At the October meeting a Chairperson will be elected. The Chairperson will be elected annually by the members. Lt. Hulings recommended that background checks be conducted in the same manner as all other Boards and Commissions. They should be sent to the State Bureau of Investigations to be fingerprinted, with the results sent to the Division of Professional

Regulation. Mr. Nutter recommended the Commission meet in October and all members present agreed. Ms. Warren advised that the Commission will need to meet to assist in developing the application, or amending the current application. A draft will be available at the meeting in October for the Commission to review. Ms. Warren indicated that there may need to be changes to the Rules and Regulations as a result of the Statute changes. Ms. Johnson deferred to Mr. Kerber to determine if the Commission should rule on an application. Ms. Warren suggested something could be placed on the Division's website, but we would need to have an application for them to apply. Ms. Johnson said the Division doesn't have any duty to advertise the law changes. Mr. Nutter was in favor of deferring to Mr. Kerber and at the October meeting they can determine if they have no applications then those businesses are operating without a license that the General Assembly has required them to have. The Division will work with Mr. Kerber to develop an application. Ms. Johnson suggested that maybe a letter should be sent to the potential businesses inviting them to apply. Ms. Warren advised that we do not know who they are or where they are. It was suggested that the constituents that went to the Legislators will bring forth locations to assure they are operating legally.

**OTHER BUSINESS BEFORE THE BOARD** (for discussion only)

Mr. Nutter spoke about the progress report, whereas the information is due to the Joint Sunset Committee prior to September 15, 2009. Ms. Warren reported the Division can draft the report and supply to the Commissioners for review.

**PUBLIC COMMENT** – None

**NEXT SCHEDULED MEETING**

The next meeting will be held in October 2009.

**ADJOURNMENT** Ms. Britt made a motion, seconded by Mr. Henry to adjourn. The motion unanimously carried. The meeting adjourned at 3:00 p.m.

Respectfully submitted,



Debbie Heinsch  
Administrative Specialist II